

FILED

AUG 15 2013

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RODNEY GEORGE PLENTY HAWK,

Defendant.

CR-09-52-BLG-DWM

ORDER ADOPTING
FINDINGS AND
RECOMMENDATIONS OF
U.S. MAGISTRATE JUDGE

On July 23, 2013, United States Magistrate Judge Carolyn S. Ostby entered Findings and Recommendation with respect to the June 19, 2013 petition for revocation of Plenty Hawk's supervised release. Docs. 34 & 42. Although the parties were notified of their right to file objections to the Findings and Recommendations within 14 days, neither party filed objections. Failure to object waives the right to review. Fed.R.Crim.P. 59(b)(2). But consistent with this

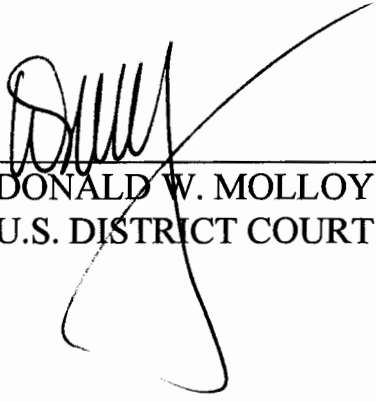
Court's "full authority" to review the Findings and Recommendations under any standard it deems appropriate, *Thomas v. Arn*, 474 U.S. 140, 154 (1985) this Court reviews for clear error. Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Plenty Hawk is alleged to have violated (1) Standard Condition Number 3 – by failing to follow his probation officers instructions as to his residence, and as to registration as a violent offender; (2) Special Condition Number 2 – by failing to participate in substance abuse treatment; (3) Special Condition Number 3 – by failing to participate in substance abuse testing; (4) Standard Condition Number 6 – by failing to notify his probation officer of his change in residence; and (5) Standard Condition Number 11 – by failing to notify his probation officer of contact with law enforcement. Based upon Plenty Hawk's admission to violating each of the alleged violations, except the allegation regarding failure to register as a violent offender, Judge Ostby recommends supervised release be revoked. Judge Ostby further recommends this Court sentence Plenty Hawk to 24 months incarceration, followed by no term of supervised release.

I find no clear error in Judge Ostby's Findings and Recommendation (doc. 42) and I adopt them in full.

Accordingly, IT IS ORDERED that Rodney George Plenty Hawk, Jr.'s supervised release is revoked. Judgment will be entered by separate document.

Dated this 15th day of August, 2013.



DONALD W. MOLLOY
U.S. DISTRICT COURT JUDGE